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ATTORNEYS FOR PLAINTIFF

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Young Hee Park,
Plaintiff,

vs.

3 Jays Properties, LLC, a California limited
liability company; and DOES 1-10 inclusive,
Defendant,

CASE NO.

Complaint for Damages and
Injunctive Relief for Violations Of:
American's With Disabilities Act;
Unruh Civil Rights Act

Plaintiff Young Hee Park complains of Defendant 3 Jays Properties, LLC, a California limited liability company; and DOES 1-10 ('Defendant') and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. She is substantially limited in her ability to walk. She is a paraplegic who uses a walker for mobility.

1 2. Defendant is, or was at the time of the incidents, the real property
2 owner(s), business operator(s), lessor(s) and/or lessee(s) of Three Jays Liquor
3 (“LIQUOR”) located at or about 2333 West Washington Boulevard, Los Angeles,
4 California.

5 3. Plaintiff does not know the true names of Defendant, their business
6 capacities, their ownership connection to the property and business, or their relative
7 responsibilities in causing the access violations herein complained of, and alleges a
8 joint venture and common enterprise by all such Defendant. Plaintiff is informed and
9 believes that Defendant herein, including Does 1 through 10, inclusive, is responsible in
10 some capacity for the events herein alleged, or is a necessary party for obtaining
11 appropriate relief. Plaintiff will seek leave to amend when the true names, capacities,
12 connections, and responsibilities of Defendant and Does 1 through 10, inclusive, are
13 ascertained.

14
15 **JURISDICTION & VENUE:**

16 4. This court has subject matter jurisdiction over this action pursuant to 28
17 U.S.C § 1331 and § 1343 (a)(3) & (a)(4) for violations of the American with
18 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19 5. Pursuant to supplemental jurisdiction, an attendant and related cause of
20 action, arising from the same nucleus of operative facts and arising out of the same
21 transactions, is also brought under California’s Unruh Civil Rights Act, which act
22 expressly incorporates the Americans with Disabilities Act.

23 6. Venue is proper in this court pursuant to 28 U.S.C § 1391 (b) and is
24 founded on the fact that the real property which is the subject of this action is located in
25 this district and that Plaintiff’s cause of action arose in this district.

26
27 **FACTUAL ALLEGATIONS:**

28 7. Plaintiff went to 3JAYS in December 2018 to patronize its business.

1 8. LIQUOR is a facility open to the public, a place of public
2 accommodation, and a business establishment.

3 9. Parking spaces are one of the facilities, privileges and advantages offered
4 by Defendant to their customers at LIQUOR.

5 10. International Symbol of Access (also known as International Wheelchair
6 Symbol in blue background) is non-existent on the asphalt.

7 11. On information and belief, Plaintiff alleges that a fully compliant parking
8 space for persons with disabilities once existed at this location. However, Defendant
9 has simply failed to maintain the parking space and have allowed the handicap parking
10 stall and the access aisle to fade beyond recognition.

11 12. There are no markings with words, "NO PARKING", (in white letters a
12 minimum of 12 inches in height) within the access aisle (commonly known as the
13 "loading/unloading zone" with hashed blue lines.

14 13. The parking spaces lacked "*Van Accessible*" and "*Minimum Fine \$250*"
15 signs which should have been mounted along with the pole-mounted signage at least
16 five feet (60 in.) above the ground.

17 14. The parking lot itself is also devoid of the signage "*Unauthorized vehicles*
18 *parking in designated accessible spaces not displaying distinguishing placards issued*
19 *for persons with disabilities will be towed away at the owner's expense. Towed*
20 *vehicles may be reclaimed at [insert address] or by telephoning [insert telephone*
21 *number]*" which should have been placed at the entrance of the parking lot on a 24 in. x
22 24 in. reflective sheeting aluminum.

23 15. Defendant has no procedure or policy in place to maintain the parking
24 spaces reserved for persons with disabilities. As such, accessible parking spaces are no
25 longer available for persons with disabilities who want to patronize LIQUOR.

26 16. Plaintiff personally encountered this problem. This inaccessible parking
27 lot denied Plaintiff full and equal access and caused her difficulty and frustration.

28 17. Plaintiff would like to return and patronize LIQUOR but will be deterred

1 from visiting until Defendant cures the violation.

2 18. Plaintiff would like to return and she intends to return once the violations
3 are fixed.

4 19. Defendant has failed to maintain in working and useable conditions those
5 features required to provide ready access to persons with disabilities.

6 20. Given the obvious and blatant violation, the Plaintiff alleges, on
7 information and belief, that there are other violations, and barriers on the site that relate
8 to her disability. Plaintiff will amend the complaint, to provide proper notice regarding
9 the scope of this lawsuit, once she conducts a site inspection. However, please be on
10 notice that the Plaintiff seeks to have all barriers related to her disability remedied. See
11 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a Plaintiff encounters
12 one barrier at a site, she can sue to have all barriers that relate to her disability removed
13 regardless of whether she personally encountered them).

14 21. Additionally, on information and belief, Plaintiff alleges that the failure to
15 remove these barriers was intentional because: (1) these particular barriers are intuitive
16 and obvious; (2) Defendant exercised control and dominion over the conditions at this
17 location and, therefore, the lack of accessible facilities was not an “accident” because
18 had Defendant intended any other configuration, they had the means and ability to make
19 the change.

20
21 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICAN WITH**
22 **DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all Defendant (42
23 U.S.C. section 12101, et seq.)

24 22. Plaintiff re-pleads and incorporates by reference, as if fully set forth again
25 herein, the allegations contained in all prior paragraphs of this complaint.

26 23. Under the ADA, it is an act of discrimination to fail to ensure that the
27 privileges, advantages, accommodations, facilities, goods and services of any place of
28 public accommodation is offered on a full and equal basis by anyone who owns, leases,

1 or operates a place of public accommodation. See 42 U.S.C. § 12182 (a).

2 “Discrimination” is defined, inter alia, as follows:

- 3 a. A failure to make reasonable modification are necessary to afford goods,
4 services, facilities, privileges, advantages, or accommodations to individuals
5 with disabilities, unless the accommodation would work a fundamental
6 alteration of those services and facilities. 42 U.S.C. § 12182 (b)(2)(A)(ii).
7
8 b. A failure to remove architectural barriers where such removal is readily
9 achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference
10 to the ADAAG, found at 28 C.F.R., Part 36, Appendix “D.”
11
12 c. A failure to make alterations in such a manner that, to the maximum extent
13 feasible, the altered portions of the facility are readily accessible to and usable
14 by individuals with disabilities, including individuals who use wheelchairs or
15 to ensure that, to the maximum extent feasible, the path of travel to the altered
16 area and the bathrooms, telephones, and drinking fountains serving the altered
17 area are readily accessible to and usable by individuals with disabilities. 42
18 U.S.C § 12183(a)(2).

19 24. Pursuant to 28 C.F.R., Part 36, Appendix D (herein after “1991
20 Standards”), section 4.1.2, and 36 C.F.R., Part 1191, Appendix B (herein after “2010
21 standards”), Section 208.2, if a business provides between 1 and 25 parking spaces,
22 they must provide at lease one handicap parking space that is van accessible (having an
23 eight foot access aisle).

24 25. Here, Defendant did not provide a single ADA compliant, useable
25 accessible parking space in its parking lot.

26 26. A public accommodation must maintain in operable working condition
27 those features of its facilities and equipment that are required to be readily accessible to
28 and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

27 27. Here, the failure to ensure that the accessible facilities were available and
28 ready to be used by the Plaintiff is a violation of the law.

1 28. Given its location and options, LIQUOR is a business that the Plaintiff
2 will continue to desire to patronize but he has been and will continue to be
3 discriminated against due to the lack of accessible facilities and, therefore, seeks
4 injunctive relief to remove the barriers.

5
6 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
7 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendant) (Cal Civ § 51-53)

8 29. Plaintiff repleads and incorporates by reference, as if fully set forth again
9 herein, the allegations contained in all prior paragraphs of this complaint.

10 30. Because Defendant violated Plaintiff's rights under the ADA, they also
11 violated the Unruh Civil Rights Act and are liable for damages. (Civ. Code § 51(f),
12 52(a).)

13 31. Because the violation of the Unruh Civil Rights Act resulted in difficulty,
14 discomfort or embarrassment for Plaintiff, Defendant is also each responsible for
15 statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-(c).)

16
17 **PRAYER:**

18 Wherefore, Plaintiff prays that this court award damages and provide relief as
19 follows:

20 1. For injunctive relief, compelling Defendant to comply with the Americans
21 with Disabilities Act and the Unruh Civil Rights Act. Note: Plaintiff is not invoking
22 section 55 of the California Civil Code and is not seeking injunctive relief under the
23 Disabled Persons Act at all.

24 2. Damages under the Unruh Civil Rights Act which damages provide for
25 actual damages and a statutory minimum of \$4,000.

26 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to
27 42 U.S.C. §12205; Cal. Civ. Code §52

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1 Dated: February 15, 2019

LAW OFFICES OF JONG YUN KIM

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3 BY: /s/ Jong Yun Kim
4 Jong Yun Kim, Esq.
5 Attorneys for Plaintiff
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